

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 11-CR-0255(1) (PJS/AJB)

Plaintiff,

v.

ORDER

MILTON CARLTON RUCKER, JR.,

Defendant.

Defendant Milton Carlton Rucker, Jr. was convicted in 2012 of conspiracy to commit bank fraud, aggravated identify theft, and being a felon in possession of a firearm. This matter is before the Court on Rucker's motion for appointment of counsel to assist him in filing an application under 28 U.S.C. § 2241 to challenge his conviction for being a felon in possession of a firearm under *Rehaif v. United States*, 139 S. Ct. 2191 (2019).

Rucker's motion is denied for two reasons. First, the Court generally does not appoint counsel to assist parties to commence proceedings, but only to assist parties with proceedings that are already pending. Rucker has not yet commenced a § 2241 proceeding. Second, Rucker cannot bring a § 2241 action in this District. Instead, he must bring such an action in the judicial district in which he is incarcerated. *See Matheny v. Morrison*, 307 F.3d 709, 711 (8th Cir. 2002).

Rucker also asks for copies of court forms and instructions for actions under § 2241 and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). The Court does not have a form or instructions for *Bivens* actions. The Court will, however, direct that a § 2241 form and instructions be sent to Rucker. The Court cautions Rucker that the instructions were developed for use in this District, not in the district in which he will have to file his § 2241 application.¹

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Defendant's motion to appoint counsel [ECF No. 367] is DENIED.
2. The Clerk of Court is directed to mail to defendant a copy of AO 242, the form for filing an action under 28 U.S.C. § 2241, as well as the accompanying instructions.

Dated: July 15, 2019

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge

¹The Court also reminds Rucker that he was sentenced to concurrent 105-month terms on his convictions for conspiracy to commit bank fraud and for being a felon in possession of a firearm. ECF No. 324. Thus, even if he is successful in getting the latter conviction vacated, he will likely have to serve the same amount of time in prison.